



STATE OF NEVADA

BEFORE THE NEVADA COMMISSION ON ETHICS

In the Matter of the Request for Opinion  
Concerning the Conduct of DAVID HUMKE,  
DAVE AIAZZI, ROBERT LARKIN, DWIGHT  
DORTCH and JOHN MAYER, Members,  
Regional Transportation Commission, Board of  
Directors,  
State of Nevada,

Request for Opinion No.: 09-01C

Subjects. /

**INVESTIGATOR'S REPORT (Tab A):**

**Introduction:**

On January 5, 2009, an Ethics Complaint was filed against David Humke (Humke), Dave Aiazzi (Aiazzi), Robert Larkin (Larkin), Dwight Dortch (Dortch) and John Mayer (Mayer), members of the Board of Commissioners (RTC Board) of the Regional Transportation Commission (RTC), alleging that they approved the expenditure of government funds to support a ballot question.

**Jurisdiction:**

As the Members of the RTC Board, no dispute exists that Humke, Aiazzi, Larkin, Dortch and Mayer are public officers as defined by NRS 281A.160. Therefore, the Nevada Commission on Ethics (Commission) has jurisdiction to render an opinion in this matter, pursuant NRS 281A.280 and NRS 281A.440.

1 **Issues:**

2  
3 The issue is whether RTC Board violated NRS 281A.520 when they requested or otherwise  
4 caused the governmental entity to incur expense or make expenditure to support or oppose ballot  
5 question.

6  
7 **Request for Opinion No. 09-01C (Ethics Complaint). (Tab B):**

8  
9 On January 5, 2009 an Ethics Complaint was filed by Kimberly Rhodemyre (Rhodemyre). The  
10 following is the summary of the allegations:

11 On undisclosed date before October 27, 2008, the members of the RTC Board violated NRS  
12 281A.520 when they approved expenditure of public funds to disseminate “mailers” supporting  
13 ballot questions. (RTC-2 and RTC-5).

14  
15 **Response to Ethics Complaint. (Tab C):**

16  
17 A response to an Ethics Complaint was received on January 26, 2009. Legal Counsel Stan Peck,  
18 Esq. (Peck) stated that the RTC Board did not violate any provisions of NRS 281A.520 because  
19 there is no clear definition of “support” for a ballot question in either Nevada Revised Statutes or  
20 Nevada Administrative Code.

21  
22 In addition, Peck stated that the RTC is the designated Metropolitan Planning Organization  
23 (MPO) responsible for developing the Regional Transportation Plan for Washoe County. Finally,  
24 Peck stated that he reviewed materials prior to its dissemination and concluded that the content  
25 was educational, balanced, and did not solicit a favorable vote e.g. “vote "yes" on RTC-2.”

1 **Investigation Summary:**

2  
3 I interviewed the following individuals and reviewed the following documents:  
4

5 **Witnesses interviews and responses (Tab D):**

6  
7 Kimberly Rhodemyre, requestor of Ethics Complaint No. 09-01C, via e-mail on February  
8 9, 2009. (Tab D, Exhibit 1).

9  
10 Joan Boetcher, witness of an Ethics Complaint No. 09-01C, via e-mail on February 15,  
11 2009. (Tab D, Exhibit 2).

12  
13 David Humke, Subject of the Ethics Complaint No.09-01C, via e-mail on February 20,  
14 2009. (Tab D, Exhibit 3).

15  
16 Dave Aiazzi, Subject of the Ethics Complaint No.09-01C, via e-mail on February 20,  
17 2009. (Tab D, Exhibit 4).

18  
19 Robert Larkin, Subject of the Ethics Complaint No.09-01C, via e-mail on February 20,  
20 2009. (Tab D, Exhibit 5).

21  
22 Dwight Dortch, Subject of the Ethics Complaint No.09-01C, via e-mail on February 20,  
23 2009. (Tab D, Exhibit 6).

24  
25 John Mayer, Subject of the Ethics Complaint No.09-01C, via e-mail on February 20,  
26 2009. (Tab D, Exhibit 7).

1 **Documents. (Tab E):**

2  
3 I obtained and reviewed the following documents and materials relevant to the investigation:

4  
5 Minutes from RTC meeting on May 16, 2008. (Tab E, Exhibit 8).

6  
7 Letter from RTC Executive Director Gregory Krause (Krause) to Katy Singlaub  
8 (Singlaub), Washoe County Manager, and a resolution from Robert Larkin, dated June  
9 17, 2008. (Tab E, Exhibit 9).

10  
11 E-mail from Peck, dated January 23, 2009. (Tab E, Exhibit 10).

12  
13 E-mail from Angela White (White) RTC Director of Marketing and Communication,  
14 dated January 23, 2008. (Tab E, Exhibit 11).

15  
16 Copy of RTC-2 “mailer” disseminated by RTC. (Tab E, Exhibit 12).

17  
18 Copy of RTC-5 “mailer” disseminated by RTC. (Tab E, Exhibit 13).

19  
20 Copy of RTC-2 and RTC-5 “mailer” disseminated by RTC. (Tab E, Exhibit 14).

21  
22 Copy of “vote yes on RTC-5” “mailer” disseminated by Road to the Future. (Tab E,  
23 Exhibit 15).

24  
25 Information about ballot question RTC-2. (Tab E, Exhibit 16).

26  
27 Information about ballot question RTC-5. (Tab E, Exhibit 17).

28  
Commission’s Opinion 06-19A. (Tab E, Exhibit 18).

1 **Investigative findings:**

2  
3 The following are my investigative findings:  
4

5 The RTC was formed in 1979 to serve citizens of Reno, Sparks and unincorporated areas of  
6 Washoe County. Its Board is comprised of five representatives appointed from three government  
7 jurisdictions. The RTC Board establishes administrative and operational policy for the agency.  
8 RTC policies are carried out by a professional and technical staff, supervised by an executive  
9 director.  
10

11 On January 18, 2008, the RTC Board created Blue Ribbon Committee in order to address  
12 shortfall in revenues for street, highway and public transportation in Washoe County. The Blue  
13 Ribbon Committee met from approximately February 7, 2008 to May 15, 2008 and  
14 recommended that two ballot questions addressing the shortfall be placed on a ballot for the  
15 November 2008 general election ballot. The ballot questions became known as RTC-2 and RTC-  
16 5 (Tab E, Exhibit 12-14 and 16-17). RTC Executive Director Krause sent a letter that included  
17 the Resolution from Larkin dated June 17, 2008 requesting the placement of questions on the  
18 November 2008 ballot to Washoe County Manager Singlaub. (Tab E, Exhibit 9).  
19

20 Peck stated that he personally reviewed the “mailers”, approved their content and communicated  
21 his decision to the Executive Director Krause. (Tab C, Affidavit of Peck, ¶ 7). The “mailers”  
22 were also reviewed by all members of the RTC Board who found them appropriate as noted in ¶  
23 10 in affidavit of each RTC Board member. As to the expenditure for the “mailers” in question,  
24 Angela White, RTC Director of Marketing and Communication indicated in her January 23,  
25 2008 e-mail that the total expense for “mailers” was \$ 21, 566.40, and included the printing,  
26 postage and mail preparation. (Tab E, Exhibit 11). The expense was included in RTC’s  
27 Marketing Department FY09 budget. Minutes from the RTC Board meeting on May 16, 2008  
28

1 indicated that the FY 09 budget was approved unanimously by all RTC board members,  
2 including all the subjects in this matter. (Tab E, Exhibit 8).

3 In their response, the RTC Board members explained their understanding of use of public funds  
4 for dissemination of “mailers” and their understanding of the duty to educate the public. (Tab D,  
5 Exhibits 3-7 ¶5 and ¶8).

6  
7 As of the “mailer” received from the complainant marked hereto as Exhibit 15, it was established  
8 that this “mailer” was not paid for or disseminated by the RTC. Therefore, this “mailer” can not  
9 be used in determination of whether or not the RTC Board violated the Ethic in Government  
10 Laws.

11  
12 On October 27, 2008, Humke admitted to Rhodemyre that RTC Board spent public funds for the  
13 mailers (Tab D, Exhibit 1, ¶6). The NRS 281A.520 prohibits public officers from using public  
14 funds to support a ballot question. Although the RTC Board argues that the “mailers” were only  
15 educational, advisory and they did not support or oppose to a ballot question, the fact is that  
16 public funds were used. In addition, the RTC Board appeals on the language of the NRS 281A.  
17 520, arguing that there is no clear definition of “support”. (Tab C, p.2).

18  
19 During a comprehensive search of previous Commission’s cases, no opinions addressing the  
20 same scenario were discovered except opinion 06-19A, which addresses the support of a ballot  
21 question although in a different manner. (Tab E, Exhibit 18). Therefore, I recommend the case be  
22 considered by the Commission in hearing as it appears to be the case of first impression.

23  
24 **Investigative conclusion:**

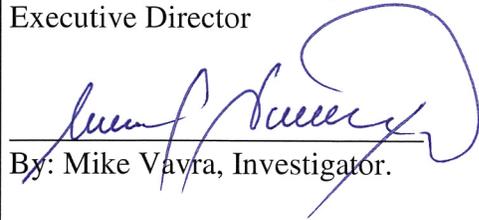
25  
26 The evidence DOES support the claim that on dates as alleged in the complaint, Humke, Aiazzi,  
27 Larkin, Dortch and Mayer violated NRS 281A.520.1. After reviewing the evidence and NRS  
28 281A.520, the recommendation is that the Panel find just and sufficient cause EXIST for the

1 Commission to render an opinion on the allegation that the RTC Board used public funds to  
2 support a ballot question.

3  
4 Therefore, on the allegation in Ethics Complaint No. 09-01C, I conclude that Humke, Aiazzi,  
5 Larkin, Dortch and Mayer DID violate the Ethics in Government Laws.

6  
7 Dated this 26 day of February 2009.

8  
9 NEVADA COMMISSION ON ETHICS  
10 Patricia D. Cafferata, Esq.  
11 Executive Director

12   
13 By: Mike Vavra, Investigator.